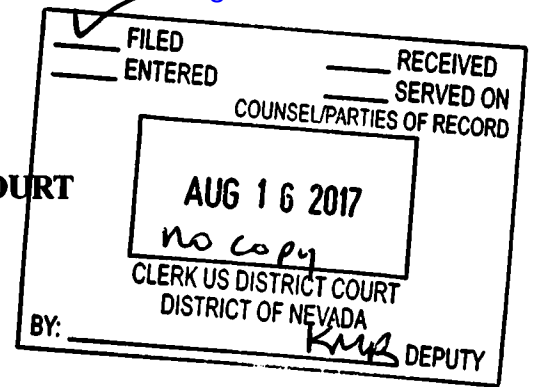


**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**



**SEIKO EPSON CORP.** )  
**AND EPSON AMERICA,** )

Plaintiffs, )

v. )

**Inksystem LLC, et.al.** )

Defendants. )  
\_\_\_\_\_ )

**Case No. 3:16-cv-00524-RCJ-VPC**

**MOTION TO VACATE  
PRELIMINARY INJUNCTION**

On August 7, 2017, the Court granted Plaintiffs Seiko Epson Corporation and Epson America, Inc (collectively "Plaintiffs") motion for a preliminary injunction order for asset seizure and impoundment and order show cause regarding issuance of pre-judgement asset seizure pursuant to the Lanham Act (15 U.S.C. §1051 et.seq.), and Federal Rules of Civil Procedure, Rule 65 ("Motion"), against Defendant's AF LLC, ART LLC, Inkredible llc LLC, Andriy Kravchuk, Igor Bielov, Artem Koshkalda, Vitalii Maliuk (collectively Defendants) Docket Nos. 132.

Defendant's respectfully disagree with the Court order based on the following facts:

After the entry of the Temporary Restraining Order ("TRO") and Preliminary Injunctions Order were granted, Defendant's with their families were immediately deprived of 100% of all sources of income and means to support themselves and pay for legal representation in this case. The TRO states that the Defendants are authorized by the order to receive \$3,000 per month, per

Defendant for necessary living and business expenses. The Defendants, since they were deprived of counsel, have tried to find a new counsel who would be able to represent them in this case. Defendants sent emails to approximately 10 potential law firms. Two of those lawyers agreed to represent on retainer basis. None of them would represent us without a retainer. Defendants could not withdraw even \$5 from their bank accounts (as shown in the transcript of video recordings made by each co-Defendant which are attached here as Exhibits A, B and supported by the attached Declarations from Defendants Koshkalda and Maliuk).

The TRO and then the Preliminary Injunction were issued on the 1st days of the month, when employees were expecting paychecks to pay rent, etc. Among employees of ART LLC, there are families with pregnant wives and children under 2 years-old. They have not received a salary since these court orders were GRANTED. This has placed a severe hardship on them. The funds needed by ART LLC per month to pay salaries and other necessary business expenses, not operations, is \$11,410.00. Even if the order permitted ART LLC to receive the \$3000 it says it is supposed to provide, but in fact no bank will provide, the sum required is far larger than \$3000. Tax obligations to the Internal Revenue Service, Nevada Department of Taxation, Nevada Department of Employment exceeds \$3000 per month as well for ART LLC.

The same harmful consequences of the Court orders also concern the other Defendants. By freezing all assets any company will be shut down. After the order was granted Defendants were forced to dismiss their counsel because they were not able to pay his fees. Thus, the Defendants were deprived from legal protection of their counsel based upon the Court orders. This contradicts with the Due Process clause of the U.S Constitution and equal rights for both parties in trial before a final decision is made on the merits.

Plaintiffs allegation that the Preliminary Injunction Order is necessary because the Defendants intended to hide their assets would be easily refuted by the facts and the documents that Defendants are willing to provide as soon as Defendants can secure counsel in order to assess how best it would be required by the Court.

Based on aforementioned facts and statements Defendants asks the Court to vacate or amend the Preliminary Injunction since it is so over-broad that no bank will even provide the \$3000 per defendant that the Order says it provides. Defendants stopped the modification of

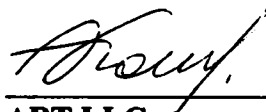
Epson ink cartridges in accordance with the Court's original temporary restraining order and preliminary injunction. Defendants now just buy and sell printers and are in real the real estate business. But the Preliminary Injunction is so drastic that it prevents any of these lawful businesses from surviving. By freezing all the assets, the order deprives the Defendants from making or receiving payments. By using this order, it does not matter what the facts are, any company would be prevented from even defending itself.

It would be understandable if the Defendants would have violated the court's orders or if the Defendants were trying to leave the country with assets, but that is not the case. Defendants have complied. The reason some properties were sold was because that was the legitimate real estate investment process. Once the properties reached a certain profit margin they were to be sold. This is what ART LLC explained to Epson in its deposition. Any profits were reinvested and accounted for in the United States. Furthermore, ART LLC was using funds borrowed from banks to acquire real estate. By killing the business during the discovery stage without permitting Defendants to make their case, it takes away any reason for Defendants to continue to even defend this case, because there is no business to save. Defendants are concerned that without being able to hire counsel because of the Preliminary Injunction Order, they are not even able to explain their concerns properly.

Respectfully submitted by,

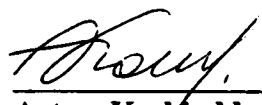
Dated: 8/14/2017

Signed by Defendants:



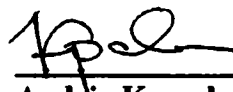
**ART LLC**

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**Andriy Kravchuk,**

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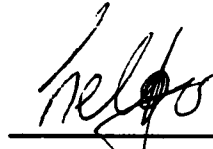
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**EXHIBIT A.**

**TRANSCRIPTS OF MR. ARTEM KOSHKALDA VIDEO RECORDING.**

Bank of America branch. August, 7, 2017 at 9:45 am. Campbell, CA.

Conversation between the bank teller (male voice) and Artem Koshkalda on the video.

Male Bank representative (B): good morning

Artem koshkalda (A): hello, how are you doing today?

B: hello, what can i do for you

A: I need to really fast to withdraw 200 dollars from my account, i'm going to tell you the account number, cuz i'm running late to the court, running late

B: got you

A: yep, let me tell you the account number

B: one second, ok shoot

A: 50

B: uhuh

A: 10

B: uhuh

A:15

B: uhuh

A: 763491

B: then you said you wanted to...

A: withdraw a hundred dollars, one hundred dollars yeah

B: withdraw a hundred dollars, got it, I uh am looking at this, Artem, and its showing that there is no funds in the account

A: no funds, there should have been 42 hundred and uh can you please look on the transactions in the account

B: yes of course, im going to resolve this, cuz i'm seeing zero and its saying credits only so I can only do deposits only on the account at the moment, so let me see what's going on, ill print you the transaction history as well

A: um don't print for now can you take a look on them

B: yeah of course

A: maybe it's going to help

B: it's a different system so i'm pulling it up right now

A: uhum

B: and that first that you gave me 501015763491

A: uhum

Incoherent background noise inside back

B: so its only letting uh, its not showing me much, it's only showing me that customer should call this particular number

A: can you help me call that number

B: it says only customers can call it sir

A: uhuh, because i have, will this paper help you, this is on the page six, its says that i am entitled to have 3000 dollars per month and i uh cannot withdraw from company and from my personal

B: I understand sir, I am also limited by what I see on my end

A: so this paper has nothing, no value to you nothing, right

A: you basically have to follow your script first

B: try to call this one first, uum because this is the only instructions left for me um whenever they uh a client comes in to the teller window

A: got it, but let me ask you a question so this paper does not carry any meaning to you because you have to

B: (incoherent, tries to interrupt)

A: let me, let me finish

B: sure

A: this paper by itself doesn't carry any meaning to you because you have to follow whatever is in your system, right?

B: uhh

A: uhh there's not a problem

B: if they end up asking about that one maybe then we can forward it but first step would be to call first and then once you call explain you have that paper as well, they might request it of you, and then give it to you

A: got it, but without permission of your legal department, this paper is meaningless to you

B: i can't do anything, yea because it's still showing zero on mine

A: got it, can you double check another account number

B: uhuh, that number would be

A: 325064

B: uhuh

A: 170519

B: 519 got it, so that account is also under the same type of uh

A: so again same question, this paper that states I am entitled to 3000 dollars to withdraw is meaningless to you because you need to refer it to the legal department and you cannot do nothing about that

B: thats the instructions I was given simply because when there is a transaction that's what it popped up, and then looking at my own system as a teller it's showing me zero balance

A: got it, and you have no authority to increase it, nothing right, you don't have that, and uhh nobody in this branch has it, its only legal department

B: correct, so I would say, keep that paper, it's good that you have it, call first, I wrote down the number on um the receipt

A: ok, ok, and what's the time right now

B: time right now is 945

A: 945, ok I'll try to call right now, thank you very much for your time, thank you.

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Bank of America branch. August, 5, 2017 at 1:35 pm. Campbell, CA.

Conversation between the bank teller (female voice) and Artem Koshkalda on the video.

Artem Koshkalda (A): hello, how are you today

Female Bank Representative (B): good, how are you?

A: uhh, I want to withdraw, withdraw five dollars from the account

B: go ahead and swipe your card

A: I don't have it, but I can tell you my account number

B: give me one second, ok go ahead

A: it is 501015763491

B: do you have your id with you

A: yeah

B: how much cash do you need?

A: five dollars

B: wait you want to withdraw

A : uhum

B: You don't have any money in that account

A: how is it possible, can you please double check

B: huh

A: can you please double check the account

B: You don't have any money in that account

A: wow, are you sure

B: I'm pretty sure, they froze the account

A: let me tell you a different account number, ok it is 32

B: uhuh

A: 50

B: uhuh

A: 64160519

B: no, nothing in there either

A: can you please, are you sure, because I had there forty two hundred, can you please double check the account

B: im sure, im looking right at it

A: can you, can you read me several last transactions

B: last transactions, yeah

A: please

B: which one, the one you just told me

A: yeah, yeah

B: looks like there was a legal order on your account

A: uh huh, yeah thats right so I have those papers right now here in front of me

B: yeah so they put a hold on your money

A: yeah, i have this, this says that i am entitled to have three thousand dollars

B: you're going to have to contact them, because for right now i don't have anything available

A: when you say them, whom exactly do you mean

B: i'm not sure, we don't get that information, because for privacy reasons it can be, it's from the past it's been either child support, if you owe taxes, if anything that has to do with that, we don't get that information, you have to call cuz they don't disclose that to us

A: when you say call, i i didn't get it

B: so it means the money is not available

A: the question, whom should i call, i mean you said them

B: customer service, bank of america customer service

A: and what would be the phone number

B: yeah it will be oh

A: its humiliating to me, its the phone number, um can you call it for me and try to find out

B: no

A: you cannot, got it, and umm are they open right now

B: im sorry

A: are they open right now



B: you can try calling, i'm not sure if the legal department, let me double check

A: can you please

B: debbie, is the legal department open today, no not til monday

A: so legal department, and there is no way we can decide, make a decision without legal department being involved

B: if its something that has to do you owing (incoherent) distributing funds

A: and uhh how early does the bank open on monday

B: on monday at nine

A: nine o'clock

B: yeah

A: and uhh

B: you can call before that, because customer service opens at like four in the morning

A: a I see, ok thank you, thank you very much, thank you uhm no paper zero in the balance, those papers dont mean anything, it looks like they have received a different, different order or something i'm not sure but it's definitely not how it was supposed to be

**EXHIBIT B.**

**TRANSCRIPTS OF MR. VITALII MALIUK VIDEO RECORDING.**

Bank of America branch. August, 5, 2017 at 1:49 pm. San Jose, CA.

Conversation between the bank teller (female voice) and Vitalii Maliuk on the video.

Vitalii Maliuk: Hi, I need to take \$5 dollars from by bank account.

Teller: From your bank account? Ok.

Vitalii Maliuk: Yeah.

Teller: Yeah, swipe, just swipe no..... (unclear).

Teller: Ok.

Teller: So, you say you want to withdraw?

Vitalii Maliuk: Yes.

Teller: You don't have any money.

Vitalii Maliuk: Ahhh, I can't or what, what the reason?

Teller: You don't have money.

Vitalii Maliuk: I don't have?

Teller: No.

Vitalii Maliuk: Ahhh, thank you.

Vitalii Maliuk has not received his paycheck from ART LLC since all assets were frozen for all co-Defendants. No other sources of income exist.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

Seiko Epson Corporation and Epson  
America, Inc.,  
Plaintiffs,  
v.  
InkSystem LLC, AF LLC, ART LLC, Lucky  
Print LLC, Inkredible LLC LLC, Andriy  
Kravchuk, Igor Bielov, Artem Koshkalda,  
Vitalii Maliuk, and Does 2 – 10, inclusive,  
Defendants.

Case No. 3:16-cv-00524-RCJ-VPC

**DECLARATION OF VITALII MALIUK  
IN SUPPORT OF MOTION TO  
VACATE PRELIMINARY  
INJUNCTION**

I, Vitalii Maliuk, declare under penalty of perjury under the laws of the United States as follows:

1. I am a Defendant in this matter and hereby make this declaration in support of Defendants' motion to vacate preliminary injunction.

2. I make this Declaration on personal knowledge and, if called and sworn as a witness, I could and would competently testify as set forth below.

3. I went to the Bank of America in order to obtain \$5, as Temporary restraining order authorized me to do so.

4. I could not receive even \$5 from my personal bank account because the paycheck was not received from ART LLC.

5. I recorded the conversation on a video I had with the employee of Bank of America. A true and correct transcript of that conversation is attached to the Motion as Exhibit B.

Dated this letter on 14<sup>th</sup> day of August, 2017.

VITALII MALIUK

A handwritten signature in black ink, appearing to read 'Vitalii Maliuk', with a stylized flourish at the end.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

Seiko Epson Corporation and Epson  
America, Inc.,  
Plaintiffs,  
v.  
InkSystem LLC, AF LLC, ART LLC, Lucky  
Print LLC, Inkredible LLC LLC, Andriy  
Kravchuk, Igor Bielov, Artem Koshkalda,  
Vitalii Maliuk, and Does 2 – 10, inclusive,  
Defendants.

Case No. 3:16-cv-00524-RCJ-VPC

**DECLARATION OF ARTEM  
KOSHKALDA IN SUPPORT OF  
DEFENDANTS' MOTION TO  
VACATE PRELIMINARY  
INJUNCTION**

I, Artem Koshkalda, declare under penalty of perjury under the laws of the United States as follows:

1. I am a Defendant in this matter and hereby make this declaration in support of Defendants' motion to vacate preliminary injunction.

2. I make this Declaration on personal knowledge and, if called and sworn as a witness, I could and would competently testify as set forth below.

3. I went to the Bank of America in order to obtain \$3000, as Temporary restraining order authorized me to do so.

4. I could not receive nor \$3000 or even \$5 from my personal and business bank accounts as permitted by the court order.

5. I recorded the conversation on a video I had with the employee of Bank of America. A true and correct transcript of that conversation is attached to the Motion as Exhibit A.

Dated this letter on 14<sup>th</sup> day of August, 2017.

**Artem Koshkalda**

